



# MEDICAL ASSISTANCE BULLETIN

COMMONWEALTH OF PENNSYLVANIA • DEPARTMENT OF PUBLIC WELFARE

ISSUE DATE

November 29, 1991

EFFECTIVE DATE

December 1, 1991

NUMBER

See Below

SUBJECT

Patient Self-Determination Act:

OBRA-90

BY

*David S. Feinberg*

David S. Feinberg

Acting Deputy Secretary for Medical Assistance Programs

## PURPOSE:

To provide information on the implementation of Section 4751 of the Omnibus Budget Reconciliation Act of 1990 [OBRA-90] (Pub.L. 101-508), pertaining to patient advance directives including a written description of the law in Pennsylvania concerning advance directives.

## SCOPE:

This Bulletin affects hospitals, nursing facilities, home health agencies, hospices, and health maintenance organizations participating as providers or seeking to enroll as providers in the Pennsylvania Medical Assistance Program. This Bulletin addresses federal law requirements relating to patient advance directives. These requirements are effective December 1, 1991.

## DISCUSSION:

Congress enacted the Patient Self-Determination Act in 1990. Under this Act, the Commonwealth must provide you with a statement which describes the current state of Pennsylvania law on "advance directives". Appendix A contains a written description of current Pennsylvania law concerning advance directives that was developed jointly by the Departments of Public Welfare, Health and Aging. Federal law requires, among other things, that you must distribute this information to patients or residents under your care beginning December 1, 1991.

In addition to distributing the written description of the law on advance directives, you must meet other requirements under the federal law. Specifically, effective December 1, 1991, you are required to do the following:

- (a) Maintain written policies and procedures concerning the State law rights of your adult patients or residents to make decisions concerning their medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives;
- (b) Provide written information to your adult patients or residents on your policies concerning implementation of such rights;

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

Please refer to attached Appendix A, page 4, question/answers no. 16.

NUMBERS:

11-91-20  
21-91-07

12-91-12  
25-91-10

13-91-03  
36-91-10

14-91-01  
37-91-02

17-91-02  
38-91-01

23-91-06  
53-91-02

Revision: HCFA-PM-91-9  
October 1991

(MB)

ATTACHMENT 4.34-A  
Page 1  
OMB No.:

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Pennsylvania

REQUIREMENTS FOR ADVANCE DIRECTIVES UNDER STATE PLANS FOR  
MEDICAL ASSISTANCE

The following is a written description of the law of the State (whether statutory or as recognized by the courts of the State) concerning advance directives. If applicable, States should include definitions of living will, durable power of attorney for health care, durable power of attorney, witness requirements, special State limitations on living will declarations, proxy designation, process information and State forms, and identify whether State law allows for a health care provider or agent of the provider to object to the implementation of advance directives on the basis of conscience.

See Medical Assistance Operational  
Bulletin effective December 1, 1991

TN No. 91-44  
Supersedes  
TN No. New

Approval Date 3/6/92

Effective Date 12/01/91

HCFA ID: 7982E